

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 TWELFTH STREET, SW**  
**WASHINGTON, DC 20554**

**MEDIA BUREAU**  
**AUDIO DIVISION**  
**APPLICATION STATUS:** (202) 418-2730  
**HOME PAGE:** [www.fcc.gov/mb/audio/](http://www.fcc.gov/mb/audio/)

**JUL 18 2013**

**ENGINEER:** GARY A. LOEHR  
**TELEPHONE:** (202) 418-2700  
**FACSIMILE:** (202) 418-1410/1411  
**MAIL STOP:** 1800B3  
**INTERNET ADDRESS:** [Gary.Loehrs@fcc.gov](mailto:Gary.Loehrs@fcc.gov)

Florida Educational Broadcasting, Inc.  
2824 NE 21<sup>st</sup> Way, Suite 3  
Gainesville, FL 32609

Re: WERF-LP, Gainesville, FL  
Facility ID No. 134753  
Florida Educational Broadcasting, Inc.  
File No. BPL-20130523AGK

Dear Applicant:

This letter refers to the above-captioned application filed by Florida Educational Broadcasting, Inc. ("FEB") for a minor change to a licensed facility and the request for waiver of 47 C.F.R. § 73.807 with respect to second adjacent channel spacing rules. For the reasons stated below, we deny the waiver request and dismiss the application.

An engineering study reveals that the facility specified in the application proposes to operate station WERF-LP on Channel 289L1 creating a second-adjacent channel short-spacing to WYKS(FM), Gainesville, FL (BLH-19941202KC). FEB recognizes this and seeks waiver of § 73.807 with respect to WYKS(FM). In support of the waiver request, FEB states that the currently licensed channel experiences interference from multiple co-channel stations. FEB cites the Local Community Radio Act of 2010 (LCRA) to request waiver of the second adjacent channel spacing requirements in § 73.807.

In requesting waiver of second-adjacent channel separations, the undesired to desired signal strength ratio methodology can be used to define areas of potential interference.<sup>1</sup> FEB provides an undesired to desired study, claiming that no population and that no land areas are affected by interference. However, the study does not provide details such as the interference area, as calculated using the undesired to desired signal strength methodology or the locations of structures or major roads in the immediate vicinity. A study by the staff reveals an interference area encompassing several occupied business structures that could contain regular listeners of WYKS(FM). Therefore, we conclude that a waiver in the instant circumstances is not warranted.

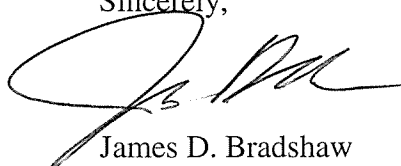
---

<sup>1</sup> 47 C.F.R. § 73.807(e)(1).

When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 189, 192 (D.C. Cir. 1987) (quoting *Rio Grande Family Radio Fellowship, INC. v. FCC*, 406 F.2d 644, 666 (D.C. Cir. 1968) (per curiam)). We have afforded your waiver request the "hard look" called for under the *WAIT* Doctrine, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances set forth in the justification are insufficient to establish that granting waiver of 47 C.F.R. § 73.215 would be in the public interest.

Accordingly, in light of the above, the request for waiver of 47 C.F.R. § 73.807 IS HEREBY DENIED and application BPL-20130523AGK IS HEREBY DISMISSED. This action is taken pursuant to Section 0.283 of the Commission's Rules.<sup>2</sup>

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Bradshaw', written over a horizontal line.

James D. Bradshaw  
Deputy Chief  
Audio Division  
Media Bureau

cc: Kyle Magrill

---

<sup>2</sup> 47 C.F.R. § 0.283.